A BILL ENTITLED

AN ACT concerning

Out-of-State Health Care Practitioners – Provision of Behavioral Health Services via Telehealth – Authorization

FOR the purpose of authorizing a health care practitioner who is not licensed in the State to provide behavioral health services via telehealth to a patient in the State under certain circumstances; and generally relating to telehealth and the provision of behavioral health services by out-of-state health care practitioners.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 1–1005

Annotated Code of Maryland

(2021 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Health Occupations

1–1005.

(A) [A] SUBJECT TO SUBSECTION (B) OF THIS SECTION, A health care practitioner providing health care services through telehealth must be licensed, certified, or otherwise authorized by law to provide health care services in the State if the health care services are being provided to a patient located in the State.

(B) (1) IN THIS SUBSECTION, “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO PROVIDES HEALTH CARE SERVICES FOR WHICH A LICENSE IS

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.
REQUIRED UNDER THIS ARTICLE WHEN THE SERVICES ARE PROVIDED IN PERSON TO A PATIENT LOCATED IN THE STATE.

(2) A HEALTH CARE PRACTITIONER WHO IS NOT LICENSED IN THE STATE MAY PROVIDE BEHAVIORAL HEALTH SERVICES VIA TELEHEALTH TO A PATIENT LOCATED IN THE STATE IN ACCORDANCE WITH THE REQUIREMENTS AND LIMITATIONS OF THIS SUBSECTION.

(3) TO PROVIDE BEHAVIORAL HEALTH SERVICES VIA TELEHEALTH TO A PATIENT LOCATED IN THE STATE, A HEALTH CARE PRACTITIONER WHO IS NOT LICENSED IN THE STATE:

(I) MUST HOLD A CURRENT, VALID, AND UNRESTRICTED LICENSE ISSUED BY AN APPLICABLE HEALTH CARE LICENSING AUTHORITY IN A STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES;

(II) EXCEPT FOR A DISCIPLINARY ACTION RELATING TO THE NONPAYMENT OF FEES RELATING TO A LICENSE, MAY NOT BE THE SUBJECT OF ANY PAST DISCIPLINARY ACTION TAKEN BY OR PENDING DISCIPLINARY PROCEEDING OF AN APPLICABLE HEALTH CARE LICENSING AUTHORITY IN A STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES;

(III) MUST ACT IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS IN THE STATE, INCLUDING THE REQUIREMENTS OF THIS ARTICLE AND THE APPLICABLE RULES AND REGULATIONS OF A HEALTH OCCUPATIONS BOARD IN THE STATE WITH AUTHORITY OVER THE PRACTICE OF THE HEALTH CARE OCCUPATION OF THE HEALTH CARE PRACTITIONER IN THE STATE;

(IV) MUST ACT IN COMPLIANCE WITH ANY STATE REQUIREMENTS REGARDING THE MAINTENANCE OF LIABILITY INSURANCE FOR THE PRACTICE OF THE HEALTH CARE OCCUPATION OF THE HEALTH CARE PRACTITIONER;

(V) MUST CONSENT TO THE JURISDICTION OF THE RELEVANT HEALTH OCCUPATIONS BOARD AND THE COURTS OF THE STATE; AND

(VI) IF APPLICABLE, MUST HOLD A CONTROLLED SUBSTANCE LICENSE OR PERMIT THAT HAS NEVER BEEN SUSPENDED OR REVOKED BY A STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES OR THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATION.

(4) AN OUT–OF–STATE HEALTH CARE PRACTITIONER WHO PROVIDES BEHAVIORAL HEALTH SERVICES VIA TELEHEALTH TO A PATIENT LOCATED IN THE
STATE SHALL BE HELD TO THE SAME STANDARDS OF PRACTICE THAT ARE APPLICABLE TO IN–PERSON HEALTH CARE SETTINGS IN THE STATE.

(5) (I) A HEALTH CARE PRACTITIONER WHO FAILS TO COMPLY WITH APPLICABLE LAWS, RULES, AND REGULATIONS IN THE STATE SHALL BE SUBJECT TO INVESTIGATION AND DISCIPLINARY ACTION BY A HEALTH OCCUPATIONS BOARD IN THE STATE WITH AUTHORITY OVER THE PRACTICE OF THE HEALTH CARE OCCUPATION OF THE HEALTH CARE PRACTITIONER IN THE STATE.

(II) DISCIPLINARY ACTION BY A HEALTH OCCUPATIONS BOARD IN THE STATE MAY INCLUDE:

1. Revocation of the health care practitioner’s Maryland practice privileges; and

2. Referral of the matter to licensing authorities in any state, district, or territory of the United States where the health care practitioner possesses a license to practice the health occupation.

(6) Venue for a civil or administrative action initiated against an out–of–state health care practitioner by the Department, a health occupations board in the State, or a patient who receives behavioral health services via telehealth from the health care practitioner shall be located in:

(i) The patient’s county of residence; or

(ii) In any other county in the State where venue may be established under § 6–201 of the Courts Article.

(7) This subsection may not be construed to shield a health care practitioner from:

(i) Personal jurisdiction in the State; or

(ii) Privacy safeguards under the Health Insurance Portability and Accountability Act of 1996.

(8) A health occupations board may adopt regulations to carry out this subsection.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.